

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WISCONSIN

IN RE:
JOSEPH R. JEFFERSON
MARKITA M. JEFFERSON

Case No. 11-36919-SVK
Chapter 13

Debtors.

**MOTION FOR RELIEF FROM AND A MODIFICATION
OF THE AUTOMATIC STAY**

The City of Milwaukee Water Works (“City”), by its attorneys, Grant F. Langley, City Attorney, by Kevin P. Sullivan, Assistant City Attorney, moves the Court for an order granting a modification of the automatic stay imposed by §362(a) of the Bankruptcy Code, to permit the City to utilize the statutory provisions contained in Wis. Stat. §66.0809 to seek collection of post-petition, delinquent obligations for municipal services in respect of property owned and/or occupied by the debtors. In support of such motion, the City alleges and shows to the Court as follows:

1. Debtors filed bankruptcy petition in this case on November 9, 2011.
2. Subsequent to the date of the bankruptcy filing, the City has provided water, sewer and other municipal services (“Services”) to 11124 W. Daphne Street in Milwaukee, Wisconsin (the “Property”), which is owned and/or occupied by debtors.
3. As of the date hereof, the total billed and unpaid, delinquent amount owed City in respect of the post-petition Services provided the Property is \$3,253.30. This post-petition obligation is due and payable in full immediately and debtors have refused City’s demand to pay same.

Drafted by:
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4. Wis. Stat. §66.0809(3) authorizes a Wisconsin municipal utility, such as the City Water Works, to collect unpaid charges each year utilizing a process by which “the arrears and penalty will be levied as a tax against the lot or parcel of real estate to which utility service was furnished and for which payment is delinquent.”

5. To the extent the Property constitutes property of the bankruptcy estate, City petitions this court to modify the automatic stay in order to permit utilization of City’s statutory rights under Wis. Stat. §66.0809(3).

6. Should the automatic stay be so modified, pursuant to Wis. Stat. §66.0809(3), the unpaid and delinquent amounts due for post-petition Services will be added to the real estate tax bill for the Property.

Wherefore, the City requests that the automatic stay be modified with respect to the Property pursuant to §362(d) of the Bankruptcy Code to permit City to utilize the statutory provisions of Wis. Stat. §66.0809(3) to seek collection of unpaid, post-petition obligations of debtors for the Services provided the Property.

Dated and signed at Milwaukee, Wisconsin this 25th day of September, 2014.

GRANT F. LANGLEY
City Attorney

s/KEVIN P. SULLIVAN
Assistant City Attorney
State Bar No. 1005718
Attorneys for City of Milwaukee

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**NOTICE OF MOTION FOR RELIEF FROM AND A MODIFICATION
OF THE AUTOMATIC STAY**

The City of Milwaukee Water Works (“City”), by its attorneys, Grant F. Langley, City Attorney, by Kevin P. Sullivan, Assistant City Attorney, has filed with the Court requesting an order granting the City a modification of the automatic stay imposed by §362(a) of the Bankruptcy Code on the grounds and for the purposes set forth in the Motion attached hereto.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the Court to enter an order granting the City of Milwaukee a modification of the automatic stay imposed by §362(a) of the Bankruptcy Code on the grounds and for the purpose set forth in the motion attached hereto or if you want the Court to consider your views on the motion, then within fourteen (14) days of the date of this notice, you or your attorney must send a written objection and a request for a hearing to the Court, at the following address:

Drafted by:
Kevin P. Sullivan
Assistant City Attorney
200 East Wells Street, Suite 800
Milwaukee, WI 53202
414-286-2601
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Clerk, U.S. Bankruptcy Court
Eastern District of Wisconsin
U.S. Courthouse, Room 126
517 East Wisconsin Avenue
Milwaukee, WI 53202-4581

Such objection should briefly state the grounds for your objection.

If you mail your objection and request for a hearing to the Court for filing, you must mail it early enough so the Court will receive it on or before the date stated above.

You must also mail a copy to:

Kevin P. Sullivan, Esq.
Assistant City Attorney,
200 East Wells Street, Suite 800
Milwaukee, WI 53202

Additionally, you must attend the hearing on this matter, if any, that will be held at a date and time to be determined by the Court, notice of which will be sent to you.

If you or your attorney do not take these steps, the Court may determine that you do not oppose the relief sought in the attached motion and may enter an order granting that relief.

Dated at Milwaukee, Wisconsin this 25th day of September, 2014.

GRANT F. LANGLEY
City Attorney

/s/KEVIN P. SULLIVAN
Assistant City Attorney
State Bar No. 1005718
Attorneys for City of Milwaukee

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AFFIDAVIT OF MAILING

Sally A. Birkholz, being first duly sworn on oath, deposes and states that true copies of the Notice of Motion for Relief from Automatic Stay, Motion for Relief from Automatic Stay and Affidavit of Mailing were served upon the hereinafter named parties by enclosing the same in an envelope postpaid for first-class handling which bore the sender's name and return address and which was addressed to each such party at his/her respective post office address and which was deposited in a U.S. Post Office Depository in Milwaukee, Wisconsin on the 25th day of September, 2014 or served electronically upon the parties that accept electronic service:

Joseph R. Jefferson
11124 W. Daphne Street
Milwaukee, WI 53224

Markita M. Jefferson
11124 W. Daphne Street
Milwaukee, WI 53224

Attorney Chad L. Schomburg
Attorney Michael S. Georg
Attorney Robert L. Mennenga
2222 N. Mayfair Road, Suite 150
Milwaukee, WI 53226

Attorney Mary B. Grossman
P.O. Box 510920
Milwaukee, WI 53203

/s/
Sally A. Birkholz

Subscribed and sworn to before me
this 25th day of September, 2014.

/s/
Kevin P. Sullivan
Notary Public, State of Wisconsin
My commission is permanent.

1048-2014-2333/207878

Drafted by:
Kevin P. Sullivan
Assistant City Attorney
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